

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 8143**

**BILL NUMBER:** HB 1983

**DATE PREPARED:** Mar 2, 1999

**BILL AMENDED:** Mar 1, 1999

**SUBJECT:** Enterprise Zones; Annexation.

**FISCAL ANALYST:** Brian Tabor, Beverly Holloway

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**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill makes several provisions regarding Enterprise Zones (EZs):

- *Expansion of EZ Board:* This bill adds six members to the EZ Board.
- *Confidentiality of EZ information:* It provides that the EZ Board, an Urban Enterprise Association (UEA), the State Department of Revenue (DOR), the Indiana Department of Commerce (IDOC), the State Board of Tax Commissioners, county auditors, and township assessors shall, upon request, provide each other with records and information (including records and information that are otherwise confidential) that concern an individual or business that is receiving a tax deduction, exemption, or credit related to an EZ.
- *Employment Expense Credit:* It provides that a pass through entity is a taxpayer for purposes of allowing a pass through entity to take an EZ employment expense credit (with 1999 the "base year" for pass through entities).
- *Investment Cost Credit:* This bill affects the EZ investment cost credit as follows:
  - (A): It provides that a pass through entity is a taxpayer for purposes of allowing a pass through entity or corporation to take an EZ investment cost credit.;
  - (B): allows certain additional EZ investment cost credits related to property that has environmental contamination, has perceived environmental contamination, or is abandoned or otherwise under used; and
  - (C): caps the total amount of EZ investment cost credits at \$500,000 per state fiscal year.
- *Loan Interest Credit:* The bill also provides that pass through entities are eligible for the EZ loan interest credit.

- *Annexed territory:* This bill provides that an ordinance adopted by a municipality that annexes certain territory that is contiguous to the municipality takes effect immediately upon the expiration of the specified 60 day remonstrance and appeal period and after the required publication, filing, and recording if:
  - (1) the annexed territory has no population;
  - (2) 90% of the total assessed value of the land for property tax purposes has one owner;
  - (3) and the annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban EZ benefits.

**Effective Date:** (Amended) February 1, 1999 [retroactive]; July 1, 1999; January 1, 2000.

**Explanation of State Expenditures:** (Revised) *Expansion of EZ Board:* This bill adds six members to the EZ Board (the Board currently consists of 13 members). The six members added to the Board would be state employees or employees of state-financed entities. These members could receive a per diem allowance and would be reimbursed for expenses incurred in the performance of Board-related duties. The IDOC provides administrative support to the Board, and expenditures are paid from the Department's budget. The IDOC was appropriated \$181,125 to oversee the EZ program in FY 1998. The Department should be able to absorb any additional costs associated with adding the new members within its current budget.

*Confidentiality of EZ information:* The EZ Board, the DOR, the IDOC, and the State Board of Tax Commissioners must, upon request, provide each other as well as county auditors, UEAs, and township assessors, with records and information (including records and information that are otherwise confidential) that concern an individual or business that is receiving a tax deduction, exemption, or credit related to an EZ. Although this provision may increase administrative expenses for the state entities, any additional costs could be absorbed within their current budgets.

*Tax Credits:* The Department of Revenue will have some minimal administrative expenses associated with revising tax forms and instructions to incorporate the changes made to these tax credits. These expenses will come from their existing budget.

**Explanation of State Revenues:** (Revised) *Confidentiality of EZ information:* A person who receives confidential records or information and knowingly or intentionally discloses the records or information to an unauthorized person commits a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

*Employment Expense Credit:* This credit may be taken against the gross income, adjusted gross income (AGI), insurance premium, or financial institutions tax liability. The credit is granted based on increased employment expenditures within an EZ for zone residents and is equal to the lesser of:

- (a) 10% of the qualified increased employment expenditures; or
- (b) \$1,500 multiplied by the number of qualified employees.

Total EZ employment expense tax credits taken in 1996 equaled approximately \$720,000, however, the credit

is currently available only to “C” corporations and sole proprietorships. According to IDOC registrations for 1997 activity, there were 642 “C” corporations and 199 sole proprietorships in all EZs. Under this bill, increased wages for zone residents employed by the 809 total pass-through entities currently located in existing EZs (743 “S” corporations, 48 partnerships, 16 limited liability corporations, and 2 limited liability partnerships) could be applied towards the employment expense credit.

Under this proposal, wage increases for zone resident employees of pass-through entities would be eligible for the credit, but the base wages used in determining the amount would be only total payroll for employees hired after December 31, 1998. The first potential year of impact would be FY 2001 (assuming an employee is hired in 1999 and receives a raise in 2000, 10% of that raise is eligible for a tax credit on the tax return in April 2001).

If 809 pass-through entities each hired 2 zone residents and subsequently gave each one a \$2,000 raise the total additional tax credit would be \$323,600 (10% of \$2,000 or \$200 x 809 firms x 2 employees). Although the maximum credit per employee is \$1,500, it would likely take some time for the wages of any new employees to be increased by \$15,000 (which, multiplied by 10%, would represent the maximum credit of \$1,500).

*Investment Cost Credit:* This bill modifies the EZ investment cost credit as follows:

(A): Investment cost credits are granted for qualified investments made within an EZ business and may be taken against AGI tax liability. The credit is determined through a formula that includes the number of jobs created and the amount of the qualified investment. This bill expands the eligibility of the EZ investment cost credit to pass-through entities. While this may expand the amount of credits taken, this bill provides a cap for this credit (see section (C) below). No investment cost credits were granted in 1997 and it is not known how many credits were granted in 1996. However, approximately \$2.5 M in EZ investment cost credits were granted to 14 taxpayers from 1989 to 1995, for an average credit of more than \$350,000 each year.

(B): This bill also allows an additional 10% EZ investment cost credit related to property that: (1) has environmental contamination; (2) has perceived environmental contamination; or (2) is abandoned or otherwise under used.

(C): Currently, there is no limit or cap on the amount of EZ investment cost credits allowable in any one year. This bill would cap the total annual amount of EZ loan interest credits granted at \$500,000.

*Loan Interest Credit:* A taxpayer making a qualified loan to an EZ business or for repair and rehabilitation of an EZ residence or other property is eligible for a tax credit equal to 5% of the interest received on the loan. The credit may be used against the gross income, AGI, insurance premium, SNIT, bank, or savings and loan association tax liability. The total loan interest credits awarded in FY 1998 were \$1,081,355.

This bill would allow pass-through entities to be eligible for the EZ loan interest credit. It is not known to what degree their inclusion would impact the amount of credits taken but this provision would allow financial institutions who were originally eligible for this credit to continue their eligibility if they have converted their corporate filing status to become a subchapter S corporation.

*All EZ tax credits listed above:* If newly eligible businesses contribute to employment and economic growth in EZs or if new businesses are established, any decrease in tax revenue due to additional credits taken could

be offset by future increases in corporate tax revenues. Such revenues would be deposited in the state General Fund and the Property Tax Replacement Fund.

**Explanation of Local Expenditures:** (Revised) *Confidentiality of EZ information:* UEAs, county auditors, and township assessors must, upon request, provide each other as well as the EZ Board, the DOR, the IDOC, and the State Board of Tax Commissioners with records and information (including records and information that are otherwise confidential) that concern an individual or business that is receiving a tax deduction, exemption, or credit related to an EZ. Although this provision may increase administrative expenses for local entities, any additional costs could be absorbed within their current budgets.

A person who receives these confidential records or information and knowingly or intentionally discloses the records or information to an unauthorized person commits a Class A misdemeanor. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** (Revised) *All EZ tax credits listed above:* If the expansion of these credits encourages more investment in EZS, the communities in which these zones are located may realize an increase in the assessed value of property and eventually lower property tax rates in these areas

*Confidentiality of EZ information:* A person who receives confidential records or information related to EZS and knowingly or intentionally discloses the records or information to an unauthorized person commits a Class A misdemeanor. If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

*Annexed territory:* This bill provides that an municipal ordinance that annexes certain contiguous territory takes effect immediately upon the expiration of the specified 60 day remonstrance and appeal period and after the required publication, filing, and recording if it meets certain qualifications. Because the qualifications are so restrictive (see Summary of Legislation), it is unlikely to affect any municipality other than the city of Lafayette.

This provision would accelerate Lafayette's annexation of a parcel of land owned by an industrial firm and with no residential population. Under current law, annexations may not occur in the year before a decennial federal census, however, this proposal would exempt this particular annexation (which has already been approved locally). Under this bill, the effective date of the annexation would be February 1, 1999 (retroactive) instead of January 2, 2000. The newly annexed territory would become part of the Lafayette EZ effective January 2000 as is presently scheduled.

As a result of this provision, Lafayette's tax base would be increased one taxable year earlier than would be otherwise permissible. Under current law, city taxes will be assessed on the property (net of any abatements and TIF allocations) beginning with the March 1, 2000 assessment date with the first taxes being paid in CY 2001. This bill would allow assessment by the city beginning on March 1, 1999 with the first payment in CY

2000. The additional assessed value would reduce the city's tax rate paid by all taxpayers in the city beginning in CY 2000 instead of CY 2001.

**State Agencies Affected:** EZ Board, Department of Commerce, Department of Revenue, State Board of Tax Commissioners.

**Local Agencies Affected:** UEAs, county auditors, trial courts, local law enforcement agencies; City of Lafayette.

**Information Sources:** Leslie Richardson, Director, Division of Research, IDOC, (317) 232-8962.